

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SUSAN WOERTH MILLER, *et al.*,

*Plaintiffs,*

v.

ASTELLAS US LLC, *et al.*,

*Defendants.*

Case No. 1:20-cv-03882

Hon. Ronald A. Guzman

Hon. Heather K. McShain

**DEFENDANT AON HEWITT INVESTMENT CONSULTING, INC.’S UNOPPOSED  
MOTION TO SEAL EXHIBIT 9 TO THE DECLARATION OF WILLIAM D. POLLAK  
IN SUPPORT OF AHIC’S MOTION TO STRIKE PLAINTIFFS’ NEWLY REQUESTED  
RELIEF AND FOR LEAVE TO FILE A SUR-REPLY**

Pursuant to Local Rule 26.2, Defendant Aon Hewitt Investment Consulting Inc. (NKA Aon Investments USA, Inc.) (“AHIC”), respectfully moves to seal Exhibit 9 to the March 31, 2021 Declaration of William D. Pollak, Esq. in Support of AHIC’s Motion to Strike Plaintiffs’ Newly Requested Relief and for Leave to File a Sur-Reply. As grounds for this unopposed Motion, AHIC states as follows:

1. Exhibit 9 should be filed under seal because it references AHIC’s confidential information, including pricing information from only a few months ago, as well as pricing information for Fidelity and JP Morgan (both third parties), and has been marked as “CONFIDENTIAL,” pursuant to the parties’ Protective Order (ECF No. 60). The disclosure of this document could harm AHIC’s business interests and negotiations with clients (or prospective clients).

2. A court may enter an order directing that one or more documents be filed under seal upon a showing of “good cause.” Fed. R. Civ. P. 26(c); *Hedick v. Kraft Heinz Co.*, No. 19-cv-1339, 2019 WL 4958238, at \*13 (N.D. Ill. Oct. 8, 2019). It is well established that the

presence of confidential business information, such as the pricing information contained in Exhibit 9, constitutes good cause. *See F.T.C. v. OSF Healthcare Sys.*, No. 11 C 50344, 2012 WL 1144620, at \*3 (N.D. Ill. Apr. 5, 2012) (“Highly confidential commercial information such as pricing information and the process involved in creating a ‘pricing architecture’ can qualify as a trade secret. . . . Moreover, where contract terms have economic value and are not generally known in the industry they may qualify as a trade secrets.”); *see also PepsiCo, Inc. v. Redmond*, 54 F.3d 1262, 1270 (7th Cir. 1995) (holding that information regarding pricing, distribution and marketing constituted trade secret material); *Jeffords v. BP Prod. N. Am. Inc.*, No. 2:15-CV-55-TLS-JEM, 2018 WL 527933, at \*2 (N.D. Ind. Jan. 24, 2018) (confidential terms including “scope of work values and prices, and specific work processes and practices” are “sufficient to permit the contracts themselves to be filed under seal”); *SmithKline Beecham Corp. v. Pentech Pharm., Inc.*, 261 F.Supp.2d 1002, 1008 (N.D. Ill. 2003) (holding that information about terms and conditions of contracts is legitimately confidential information that competitors should not have and the public does not need to know to evaluate the judiciary’s handling of the litigation).

3. Moreover, courts routinely find there is good cause to seal documents that have been marked as “confidential” pursuant to a protective order. *See, e.g., Sunoco Partners Mktg. & Terminals L.P. v. U.S. Venture, Inc.*, No. 15 C 8178, 2018 WL 4699797, at \*1 (N.D. Ill. Sept. 30, 2018); *Sri Rangarajan v. Caterpillar Inc.*, No. 114 CV 01156 SLD JEH, 2017 WL 2332857, at \*15 (C.D. Ill. Mar. 28, 2017). Sealing also will not harm the public interest, as there is no generalized interest of the public to have access to AHIC’s confidential pricing provisions.

4. AHIC conferred with plaintiffs and Astellas US LLC, the Board of Directors of Astellas US LLC, and the Astellas Retirement Plan Administrative Committee prior to filing this

motion for sealing. The parties informed AHIC that they do not oppose this request.

WHEREFORE, AHIC respectfully requests that this unopposed Motion be granted and the Court seal Exhibit 9 to the Declaration of William D. Pollak filed in support of AHIC's Motion for Leave to file a Sur-Reply.

Dated: April 1, 2021

Respectfully Submitted,

/s/ Brian D. Boyle  
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*Attorneys for Aon Hewitt Investment Consulting  
Inc. (NKA Aon Investments USA, Inc.)*

**LOCAL RULE 37.2 CERTIFICATION**

On March 31, 2021 at approximately 3:45 PM EST, Mr. William D. Pollak, on behalf of Aon Hewitt Investment Consulting Inc., and Mr. Troy Doles, Esq., counsel for plaintiffs, conferred by email to discuss the AHIC's Motion for Leave to File a Sur-Reply and the sealing of Exhibit 9 to the Pollak Declaration. On March 31, 2021 at approximately 5:30 PM EST, Mr. Pollak and Troy Doles, Esq. conferred by phone to discuss the same. On April 1, 2021, at 10:30am and 11:44AM, Mr. Doles and Mr. Pollak conferred by email regarding the same. On March 31, 2021 at approximately 8:40 PM EST, Mr. Pollak and Matthew Russell, Esq., counsel for Astellas US LLC, the Board of Directors of Astellas US LLC, and the Astellas Retirement Plan Administrative Committee conferred by email regarding the same. During these email exchanges, counsel for plaintiffs and counsel for Astellas US LLC, the Board of Directors of Astellas US LLC, and the Astellas Retirement Plan Administrative Committee stated that they do not oppose such request for relief.

/s/ Brian D. Boyle  
Brian D. Boyle

*Attorney for Aon Hewitt Investment Consulting Inc.  
(NKA Aon Investments USA, Inc.)*

**CERTIFICATE OF SERVICE**

I, Brian D. Boyle, hereby certify that on April 1, 2021, I electronically filed the foregoing *DEFENDANT AON HEWITT INVESTMENT CONSULTING, INC. 'S MOTION TO SEAL EXHIBIT 9 TO THE DECLARATION OF WILLIAM D. POLLAK IN SUPPORT OF ITS MOTION TO STRIKE PLAINTIFFS' NEWLY REQUESTED RELIEF OR FOR LEAVE TO FILE A SUR-REPLY* using the CM/ECF system, which will send notification of such filing to all registered participants.

/s/ Brian D. Boyle

Brian D. Boyle

*Attorney for Aon Hewitt Investment Consulting Inc.  
(NKA Aon Investments USA, Inc.)*